IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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O R D E R

Bhikam Chand Soni Vs. State of Rajasthan & ORS.

S.B. CIVIL WRIT PETITION NO.4308/2002 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 7.7.2006

PRESENT

HON'BLE MR.MOHAMMAD RAFIQ,J.

Mr. M.S.Purohit, for the petitioner.
Mr. Rameshwar Dave, Dy.GA, for the respondent-State.

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BY THE COURT: -

The petitioner in this writ petition has challenged the order dated 15.10.2002 (Annex.1) whereby the petitioner has been transferred from Government Multi Purpose Higher Secondary School, Phalodi to Government Higher Secondary School, Barmer

The note given below to this order indicates that only the incumbents no.2,3,5,8,10,12,14,18,20,23,26,29,31,33,35 and 37 would be entitled to receive TA and DA. The petitioner has alleged that since his name not been included therein, therefore, his transfer has wrongly been made treating it to be transfer on his request.

The respondents in the reply to the writ petition have stated that even if the name of the petitioner was not included amongst those who were held to be entitled to receive TA and DA, the petitioner can at best now claim for the benefit of TA and DA and the order of transfer on that count alone cannot be held to be illegal or suffering from any infirmity.

This court while issuing notice on 29.10.2002 stayed the operation of the order Ex.1 and the stay order has been operating in this matter since then. Now that a period of about three and half years has elapsed since then, I do not consider it appropriate to go into the merits of the case and examine correctness of the transfer order. At the same time, however, I deem it appropriate that in view of long lapse of time, the transfer order itself has become old enough and same may not be given effect to now. However, the authorities shall be at liberty to pass fresh order of transfer if they so desire. A copy

of this order be sent to the Joint Director (Personnel), Secondary Education, Rajasthan, Bikaner.

In view of the above, the writ petition of the petitioner is disposed of with no order as to costs.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-